IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 673 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHAGWANDAS PARMANAND PUNJABI

Versus

GSFC, THROUGH MD SK NANDA AND OR MANAGER

Appearance:

MR KB PUJARA, for the Petitioner

Mr TS NANAVATI for MR SANJAY A MEHTA on Caveat

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 24/01/2001

ORAL JUDGEMENT

Rule. Mr. Nanavati waives services of rule.

The dispute revolves round the residential property bearing Flat No. M-5/42/329 at Shastrinagar, Naranpura, Ahmedabad which was placed as collateral security by the petitioner before the respondent-Corporation against the

loan borrowed by respondent No.2. The respondent-Corporation has placed its seal on the residential property and the petitioner has comeforward seeking removal of the seal and putting the family members residing therein in possession.

2. We find from record that an injunction application has already been moved by respondent No.2 in Civil Suit No.5736 of 2000 seeking the same relief. In prayer clause-1 in the said injunction application the plaintiff (Respondent No.2 herein) has stated that defendant No.2, the petitioner herein is ready to deposit Rs.3.68 lacs in the Court and that thereupon the petitioner be discharged from the guarantee of the plaintiff.

3. The aforesaid injunction application was moved on 20 January, 2001 a notice was made returnable on 22/01/2000. In view of the fact that Mr.Sanjay Mehta appearing on behalf of respondent-Corporation, in the said proceedings was not available, the matter is now placed for hearing on 25/01/2001.

4. The petitioner apprehends that on the said date of hearing i.e. on 25/01/2001 the matter is again likely to be adjourned and the petitioner and his relative's family would suffer on this count. Mr.Nanavati appearing for respondent-Corporation has stated that the Corporation shall not seek any time before the trial Court on 25/01/2001 and shall go on with the matter.

5. Mr.Pujara on behalf of the petitioner has placed reliance on Section 31 of the State Financial Corporations Act, 1951 while Mr. Nanavati has placed reliance on Section 29 of the said Act. In support of the action taken by the respondent-Corporation, Mr.Pujara has once again shown the willingness of the petitioner to deposit reasonable amount being value of the flat as per valuation report available at page 42 of this petition.

6. In view of the fact that the hearing of the injunction application is to come up tomorrow i.e. on 25/01/2001 and the relief sought therein is identical to that sought for in this petition, we do not feel it necessary to interfere at this stage. However, we have passed this elaborate order to place the facts on record in light of exhaustive arguments from both sides.

7. We hereby direct the trial Court to take up the matter without fail in relation to injunction application and decide the same at the earliest taking into

consideration the offer made by the petitioner (defendant No.2) to deposit a reasonable sum in lieu of the seal imposed by the respondent-Corporation being lifted. This petition is accordingly disposed of.

Rule discharged with no order as to costs. Direct Service permitted.

Sd/-
(D.A. Mehta, J)

(B.P.Katira)